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August 12, 2008

Andrea Smith
Petitions Examiner
Office of Petitions
Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Via Facsimile (0012): (571) 273-8300

Re: Pending Petition Under 37 CFR 1.78(a)(3) Concerning
U.S. Patent Application No. 10/578,585 filed March 2, 2007
Our File: 081553-000000US

Dear Ms. Smith:

This responds to the Decision of July 16, 2008 (copy attached) in which the Petition was dismissed because the priority claim did not commence on a separate physical sheet and for failure to include the priority claim to Application No. 10/994,981.

I also thank you for taking time out today, briefly discussing this matter with me and for pointing out that the priority claim cannot be incorporated by reference because this would be considered to constitute new matter.

You further advised me that it was not necessary to refile the entire Petition and, instead, it is sufficient if I supplement the previously filed Petition with the Amendment attached hereto, which is believed to conform to all requirements set forth in the July 16, 2008 Decision and the subsequent telephone conversation.

Accordingly, attached hereto is a revised Supplemental Amendment which includes the priority claim on a separate sheet and deletes the incorporation by reference.

In view of the foregoing, applicants request an early grant of this Petition.

If it is felt a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4730 (direct dial).

Respectfully submitted,


J. George Seka

JGS/jw
Attachments
61463362.v1

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PATENT

Attorney Docket No. 81553
Client Ref. No. C5147PWOUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

LARRY LAPANASHVILI, ET AL.

Application No. 10/578,585

Filed: March 2, 2007

For: CCOUNTER PULSATION
ELECTROTHERAPY APPARATUS
FOR TREATING A PERSON OR A
MAMMAL

Customer No. 20350

Confirmation No. 1736

Examiner: Nicole F. Lavert

Technology Center/Art Unit: 4123

REVISED SUPPLEMENTAL
AMENDMENT TO ACCOMPANY
PETITION FOR UNINTENTIONALLY
DELAYED PRIORITY CLAIM

San Francisco, CA 94111
August 12, 2008

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Revised Supplemental Amendment is being submitted in response to the Dismissal of Applicants' Petition dated July 16, 2008, a copy of which is attached.

Please enter the following amendments and remarks:

Amendments to the Specification begin on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.

Application No. 10/578,585
Revised Supplemental Amendment to Accompany
Petition for Unintentionally Delayed Priority Claim

PATENT

Amendments to the Specification:

Please amend this application by adding to page 1 of this application, immediately following the title of the application, the new heading and paragraph set forth on the next page hereof:

Application No. 10/578,585
Revised Supplemental Amendment to Accompany
Petition for Unintentionally Delayed Priority Claim

PATENT

Related Applications

This application is a continuation-in-part of Application No. 10/994,981 filed November 19, 2004, which application is a divisional application of Application No. 10/069,333 filed July 15, 2002, now Patent No. 6,832,982, filed as a 371 application of International Application No. PCT/EF00/07933, filed on August 14, 2000, which is a continuation-in-part application of Application No. 09/378,181 filed August 20, 1999, now Patent No. 6,450,942.

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Application No. 10/578,585
Revised Supplemental Amendment to Accompany
Petition for Unintentionally Delayed Priority Claim

PATENT

REMARKS/ARGUMENTS

A first paragraph has been added to set forth applicants' priority claim in the specification.

CONCLUSION

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4730 (direct dial).

Respectfully submitted,



J. Georg Seka
Reg. No. 24,491

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UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 12 2008*Response Due 09/16/08***COPY MAILED**

JUL 16 2008

In re Application of
Larry Lapanashvili, et. al.
Application No. 10/578,585
Filed: March 2, 2007
Attorney Docket No. 081553-000000US

OFFICE OF PETITIONS

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petitions under 37 CFR 1.78(a)(3), filed February 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, as set forth in the concurrently filed Application Data Sheet (ADS).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above; therefore, the petition is **DISMISSED**.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified

Application No. 10/578,585

Page 2

amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Further, the ADS filed on February 7, 2008 does not match the priority claim supplied in the petition, in that, it fails to include priority to Application No. 10/994,981 filed on November 19, 2004. If petitioner desires to have this application included in the claim for priority, it should be included in the substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).¹

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450


By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The Centralized facsimile number is (571) 273-8300, and documentation to this number should be addressed to the Office of Petitions.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.78(a)(3).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

¹ The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).